

Board of Zoning Appeals

Minutes

May 9, 2017

Members present: John Golzy (Chairperson), Lisa Carson, Betty Hollow, Joan Kraynanski, Kay Tousley, Edward Baum (alternate), Aaron Thomas (alternate).

City officials present: Rick Sirois (Zoning Administrator), Paul Eschenbacher (secretary).

The meeting was called to order at 7:01pm in City Council Chambers, third floor of City Hall. The Chairperson introduced a video about the policies and procedures of the Board of Zoning Appeals. The Chairperson then swore in, under oath, those intending to give testimony.

Case #17-09V 97 Columbus Road Zone B-3 Appalachian Renewable Power, appellant

Appellant is requesting a variance from ACC 23.03.10 to allow five (5) accessory structures on a property, where two (2) accessory structures are the maximum allowed.

The Chairperson called on the appellant to testify.

Gary Easton (Appalachian Renewable Power owner) addressed the Board. Mr. Easton said that they originally wanted to put the solar array on the roof of the brewery, but that the main building and current accessory structures could not carry the load. He noted that most structures in this area could carry such a load. Mr. Easton added that the proposed arrays will not pull down neighboring property values.

The Chairperson asked about the poles already in the ground for the arrays. Mr. Easton said that he had jumped the gun in construction after getting State approval. He also said that the arrays should create a significant amount of electricity for the brewery, and estimated 30% of the power would come from those arrays.

Ms. Kraynanski asked about the height of the arrays. Mr. Easton said they would be 11 feet tall at the back. The Chairperson asked if the arrays would be movable. Mr. Easton said that they would be fixed, and showed a depiction of the proposed set-up to the Board. Ms. Tousley asked that, if the land and property layout would permit, would it be one large array instead of three. Mr. Easton said that it could be so. The Chairperson asked about enforcing the brewery roof. Mr. Easton said the entire building would have to be redesigned and rebuilt with extra reinforcements.

The Chairperson called on anyone wanting to speak in favor of, make general comment about, or speak against the variance. No one came forward.

On a motion by Ms. Kraynanski, seconded by Ms. Carson, the Board moved to grant a variance from ACC 23.03.10 to allow five (5) accessory structures on a property, three (3) of which will be solar arrays, where two (2) accessory structures are the maximum allowed.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** It cannot be built in an appropriate manner on the roof, and there is ground space available. The topography is not conducive to one panel.
- 2.) **HARDSHIP AND DIFFICULTY:** The roof cannot support the panels.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** I can see rows and rows of solar panels.
- 4.) **MINIMUM VARIANCE:** Yes, for solar panels on pieces of property that are not usable. It is for solar arrays only.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes—Carson, Kraynanski, Tousley. No—Golzy, Hollow. Motion approved 3-2; variance granted.

Case #17-10V	56 West Union Street	Zone R-3	Carol Ault/Dogwood Rental Properties LLC, appellant
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Appellant is requesting variances from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the reconstruction of a building with a seventeen feet 10 inch (17', 10") front setback where twenty-five feet (25') is the minimum requirement, and to allow the reconstruction of a duplex on a lot with six thousand six hundred sixty-five (6665) square feet where seven thousand (7000) square feet is the minimum requirement, and from ACC 23.10.01, Table B, Off-Street Parking Requirements to allow the reconstruction of the building with zero (0) parking spaces where seven (7) parking spaces are the minimum requirement.

The Zoning Administrator read aloud a letter from City Engineer and Director of Public Works Andy Stone about storm drainage on the property.

Mr. Kraynanski asked if the new addition would have the identical footprint of the old addition. The Zoning Administrator said that it would. Ms. Hollow commented that the appellant would lose the grandfathering for no parking on the property with that section torn down.

The Chairperson called on the appellant to testify.

William Turman (7474 Radford Road, contractor for the appellant) addressed the Board. Mr. Turman said that the old house foundation is the issue, and that he must remove that section to jack up and shore up the house. He said that he could remodel two walls at a time, but that it would be easier to pull down the addition.

Mr. Turman said a French drain on the property will not do much about the drainage problem there, and noted that the neighbor's building (72 West Union Street) has storm water damage, noting the neighbor has two drains on his property.

Mr. Turman said that if they are allowed to move the addition, an eight-foot setback would be created, which would add separation and added fire safety between them and the neighbor. He stated that they are asking for anything more than what they already have. Mr. Turman said that adding parking to the property would cost as much as the house itself.

The Chairperson asked about the retaining wall in front of the house. Mr. Turman said that the wall is not part of this project, but they have been in discussion as to whether the wall is on their property or in the City right-of-way.

Ms. Hollow asked about the possibility of parking on the lot. Mr. Turman said there is always a possibility, but that it would be expensive. Ms. Hollow asked if the addition was removed, would that create parking space. Mr. Turman said that there would not be, as the lot is surrounded by the hill and a massive retaining wall would have to be built. He added that the property is very steep, and he is not sure that tracked machinery can be used on the lot.

The Chairperson noted that in the narrative supplied to the Board by the appellant, it stated that they would not be denied reasonable use of the property if the variance was denied. Ms. Kraynanski noted that for 10, 12 and 14 West Union Street (Cases #15-07V, #15-08V, #15-09V) no parking was required for their cases, and indicated that one must try to secure off-site parking.

Carol Ault addressed the Board. Ms. Ault reiterated that she is not asking for a change in size or use. She stated that she wants to make an effective repair to the house. Ms. Ault said that she has no plans for parking on the lot as it does not allow for accessible parking spaces, and that it would be difficult to use it in inclement weather. She noted that past tenants have rented parking at the Athens County Fairgrounds.

Ms. Hollow suggested holding this case while the appellant looks for off-site parking. Ms. Ault said they were under time constraints to finish the project.

Ms. Kraynanski said that if the addition was torn down, there still would be no parking on the lot. The secretary noted that, because this is a change, the parking requirements must still be met. He also added that if the appellant leaves at least 50% of the addition up at a time while doing the work, no variance would be needed. Mr. Thomas said that the parking regulations are outdated.

The Chairperson asked the appellant about adding a condition to the variance to find parking. Ms. Ault said that she would be willing to reserve parking.

Mr. Baum said that the choice in this case is to either make the appellant to make repairs at a longer length of time, or allow the appellant to repair in a more efficient manner.

The Chairperson called on anyone wanting to speak in favor of, make general comment about, or speak against the variance. No one came forward.

Mr. Turman said that he wanted to re-emphasize the safety if the addition was moved away from the property line.

Ms. Carson stated that it seems as though the City must wait for properties to crumble before then trying to make lots conforming.

Ms. Hollow said that no energy was spent by the appellant to look for parking.

The Chairperson closed the floor for discussion.

On a motion by Ms. Tousley, seconded by Ms. Kraynanski, the Board moved to grant to the property at 56 West Union Street variances from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the reconstruction of a building with a seventeen feet 10 inch (17', 10") front setback where twenty-five feet (25') is the minimum requirement, and to allow the reconstruction of a duplex on a lot with six thousand six hundred sixty-five (6665) square feet where seven thousand (7000) square feet is the minimum requirement, and from ACC 23.10.01, Table B, Off-Street Parking Requirements to allow the reconstruction of the building with zero (0) parking spaces where seven (7) parking spaces are the minimum requirement, with the condition that six (6) off-site parking spaces be provided.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** Parking is not easy to put in there.
- 2.) **HARDSHIP AND DIFFICULTY:** The building requires repairs.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Yes, because of conditions.
- 4.) **MINIMUM VARIANCE:** No.
- 5.) **ABSENCE OF DETRIMENT:** Yes. It is to make structure safer.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes—Carson, Golzy, Hollow, Kraynanski, Tousley. No—no one. Motion approved 5-0; variance granted.

OTHER BUSINESS:

--*Disposition of minutes from April 25, 2017 meeting.* Ms. Kraynanski noted corrections she wanted for the minutes.

--*Special meeting for City pool flood hazard variance hearing.* The Board wanted available dates from the Service-Safety Director and Board members to be able to meet.

The meeting ended at 8:34pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary